

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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DZEVAD DURAKOVIC,

Plaintiff,

v.

3:17-CV-0894  
(TJM/WBC)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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THOMAS J. McAVOY,  
Senior United States District Judge

**DECISION & ORDER**

**I. INTRODUCTION**

Currently before the Court, in this Social Security action filed by Dzevad Durakovic (“Plaintiff”) against the Commissioner of Social Security (“Defendant” or “the Commissioner”) pursuant to 42 U.S.C. §§ 405(g) and 1383(c)(3), are the parties’ cross-motions for judgment on the pleadings. (Dkt. Nos. 11, 12.) The Court referred this matter to the Hon. William B. Mitchell Carter, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule N.D.N.Y. 72.3(c).

In his May 30, 2018 Report and Recommendation (Dkt. No. 13), Magistrate Judge Carter recommends that Plaintiff’s motion for judgment on the pleadings (Dkt. No. 11) be granted in part and denied in part, and the Commissioner’s motion for judgment on the pleadings (Dkt. No. 12) be granted in part and denied in part, and the matter be remanded for further proceedings under sentence four of 42 U.S.C. § 405(g) consistent with

Magistrate Judge Carter's report. The Commissioner lodges objections to Magistrate Judge Carter's recommendations (Dkt. No. 14), and the Plaintiff submits a response thereto (Dkt. No. 15).

## **II. STANDARD OF REVIEW**

When objections to a magistrate judge's report and recommendation are lodged, the district court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1)(C); see also *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir.1997)(The Court must make a *de novo* determination to the extent that a party makes specific objections to a magistrate's findings.). After reviewing the report and recommendation, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b)(1)(C).

## **III. DISCUSSION**

On *de novo* review of those portions of the Report and Recommendation to which objections are made, the Court agrees with Magistrate Judge Carter's recommendations for the reasons stated in his thorough report.

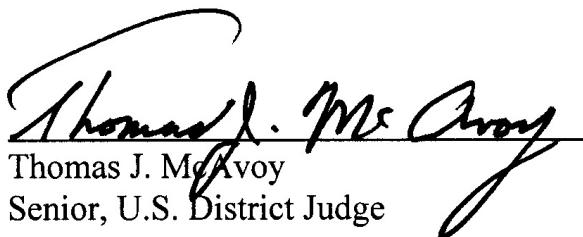
## **IV. CONCLUSION**

Accordingly, the Court **ACCEPTS** and **ADOPTS** Magistrate Judge Carter's recommendations stated in his Report and Recommendation (Dkt. No. 13). Plaintiff's motion for judgment on the pleadings (Dkt. No. 11) is **GRANTED in part** and **DENIED in**

**part**, and the Commissioner's motion for judgment on the pleadings (Dkt. No. 12) is **GRANTED in part** and **DENIED in part**, and the matter is remanded for further proceedings under sentence four of 42 U.S.C. § 405(g) consistent with Magistrate Judge Carter's Report and Recommendation.

**IT IS SO ORDERED.**

Dated:August 23, 2018



Thomas J. McAvoy  
Senior, U.S. District Judge